

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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|-----------------------------|---|----------------------------|
| Khammesherma Smith, |) | C.A. No. 6:22-4325-HMH-KFM |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | OPINION & ORDER |
| |) | |
| |) | |
| Warden Kershaw Correctional |) | |
| Institution, |) | |
| |) | |
| Respondent. |) | |

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ Khammesherma Smith (“Smith”) is a pro se state prisoner seeking habeas corpus relief pursuant to 28 U.S.C. § 2254. In his Report and Recommendation filed on January 17, 2023, Magistrate Judge McDonald recommends that Smith’s § 2254 petition be dismissed without requiring the respondent to file an answer or return. (R&R, generally, ECF No. 11.)

Smith filed timely objections to the Report and Recommendation.² (Objs., ECF No. 14.) Objections to the Report and Recommendation must be specific. Failure to file specific

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² Houston v. Lack, 487 U.S. 266 (1988).

objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, Smith's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge McDonald's Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that Smith's § 2254 petition is dismissed without requiring the respondent to file an answer or return. It is further

ORDERED that a certificate of appealability is denied because Smith has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
February 15, 2023

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.